

TED STEVENS, ALASKA  
GEORGE V. VOINOVICH, OHIO  
NORM COLEMAN, MINNESOTA  
TOM COBURN, OKLAHOMA  
LINCOLN CHAFEE, RHODE ISLAND  
ROBERT F. BENNETT, UTAH  
PETE DOMENICI, NEW MEXICO  
JOHN WARNER, VIRGINIA

JOSEPH I. LIEBERMAN, CONNECTICUT  
CARL LEVIN, MICHIGAN  
DANIEL K. AKAKA, HAWAII  
THOMAS R. CARPER, DELAWARE  
MARK DAYTON, MINNESOTA  
FRANK LAUTENBERG, NEW JERSEY  
MARK PRYOR, ARKANSAS

# United States Senate

COMMITTEE ON  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS  
WASHINGTON, DC 20510-6250

February 4, 2005

The Honorable Robert S. Mueller III  
Federal Bureau of Investigation  
J. Edgar Hoover Building  
935 Pennsylvania Avenue, N.W.  
Washington, D.C. 20535-0001

Dear Director Mueller:

The Homeland Security and Governmental Affairs Committee is currently considering the nomination of Judge Michael Chertoff to be Secretary of the Department of Homeland Security (DHS). The enclosed document came to our attention during preparation for the nomination hearing, and the purpose of this letter is to request an unredacted copy for review.

The document consists of three FBI internal emails dated May 10, 2004, marked by Bates Nos. 2709 to 2711. The redacted version was recently released by the FBI in response to a request by a private party under the Freedom of Information Act. The document indicates that FBI personnel were deeply concerned about interrogation techniques which were being used in Guantanamo Bay by the Department of Defense and DHS personnel. It further indicates that FBI personnel communicated with personnel in the Department of Justice, including the Criminal Division, regarding their concerns about interrogation techniques in use at Guantanamo Bay. Based on the content of the document, we believe many of the referenced events occurred during the tenure of Judge Chertoff as head of the Criminal Division, and an unredacted copy of this document will allow a fuller understanding of the events being discussed.

We ask that an unredacted version of this three-page document be provided to the Office of Senate Security where we and staff members with appropriate clearance can review it. Please provide an unredacted copy to the Senate Security Office no later than 4:00 p.m. on Friday, February 4, 2005. If you will not provide a copy of this document, please provide a legal justification for doing so.

Thank you for your attention. If your staff has any questions, please have them contact Elise J. Bean (Sen. Levin) at 224-9505 or Laurie Rubenstein (Sen. Lieberman) at 224-2627.

Sincerely,

  
Joseph Lieberman

  
Carl Levin

JL/CL:ejb  
Enclosure

~~SECRET~~

[redacted] (IR) (FBI) b6 -1  
b7C -1

From: [redacted] (Div13) (FBI)

Sent: Monday, May 10, 2004 12:26 PM b6 -1  
b7C -1

To: HARRINGTON, T J. (Div13) (FBI)

Cc: BATTLE, FRANKIE (Div13) (FBI) [redacted] (IR) (FBI) [redacted]  
(Div13) (FBI); [redacted] (Div13) (FBI); [redacted] (Div13) (FBI);  
CUMMINGS, ARTHUR M. (Div13) (FBI)

Subject: Instructions to GTMO interrogators.

~~SECRET//ORCON,NOFORN~~  
RECORD 315N-MM-C99102

TJ,

I will have to do some digging into old files [redacted]  
[redacted] We did advise each supervisor that want to GTMO to stay in line with Bureau policy and not deviate from that [redacted] I went to GTMO with [redacted] early on and we discussed the effectiveness [redacted] with the SSA. We (BAU and ITOS1) had also met with General's Dunlevey & Miller explaining our position (Law Enforcement techniques) vs. DoD. Both agreed the Bureau has their way of doing business and DoD has their marching orders from the Sec Def. Although the two techniques differed drastically, both Generals believed they had a job to accomplish. It was our mission to gather critical intelligence and evidence [redacted] in furtherance of FBI cases. In my weekly meetings with DOJ we often discussed techniques and how they were not effective or producing intel that was reliable. [redacted] (SES), [redacted] (SES) [redacted] (now SES [redacted] at the time) and [redacted] (SES Appointee) all from DOJ Criminal Division attended meetings with FBI. We all agreed [redacted] were going to be an issue in the military commission cases. I know [redacted] brought this to the attention of [redacted]

One specific example was [redacted] Once the Bureau provide DoD with the findings [redacted] they wanted to pursue expeditiously their methods to get "more out of him" [redacted] We were given a so called deadline to use our traditional methods. Once our timeline [redacted] was up [redacted] took the reigns. We stepped out of the picture and [redacted] ran the operation [redacted] FBI did not participate at the direction of myself [redacted] and BAU UC [redacted] We would receive IIRs on the results of the process. (S)

I went to GTMO on one occasion to specifically address the information coming from [redacted]  
[redacted] We (DoD 3 Star Geoff Miller, FBI, CITF [redacted] etc) had a VTC with the Pentagon Detainee Policy Committee. During this VTC I voiced concerns that the intel produced was nothing more than what FBI got using simple investigative techniques (following the trail of the detainee in and out of the US compared to the trail of [redacted] was providing [redacted] portion of the briefing. [redacted] was present at the Pentagon side of the VTC. After allowing [redacted] to produce nothing, I finally voiced my opinion concerning the information. The conversations were somewhat heated. [redacted] agreed with me. [redacted] finally admitted the information was the same info the Bureau obtained. It still did not prevent them from continuing the [redacted] methods". DOJ was with me at GTMO [redacted] during that time. b1  
b5 -1  
b6 -1,2,5  
b7C -1,2,5

Bottom line is FBI personnel have not been involved in any methods of interrogation that deviate from our policy. The specific guidance we have given has always been no Miranda, otherwise, follow FBI/DOJ policy just as you would in your field office. Use common sense. Utilize our methods that are proven (Reed school, etc).

If you would like to call me to discuss this on the telephone I can be reached at [redacted] b2 -1

-----Original Message-----

~~SECRET~~

9/26/2004

CLASSIFIED BY: 41572000/3000 add: 010-0115  
REASON: 1.1.1 (C)  
DECLASSIFY ON: 10-22-2028

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

DETAINEES-2709

3131

~~SECRET~~

From: HARRINGTON, T J. (Div13) (FBI)  
 Sent: Monday, May 10, 2004 9:21 AM  
 To: [REDACTED] (Div13) (FBI) b6 -1  
 Subject: RE: pls confirm b7C -1

SENSITIVE BUT UNCLASSIFIED  
NON-RECORD

Referral/Direct

We have this information, now we are trying to go beyond did we ever put into writing in an EC, memo, note or briefing paper to our personnel our position [REDACTED] that we were pursuing our traditional methods of building trust and a relationship with subjects. Tom

-----Original Message-----

From: [REDACTED] (Div13) (FBI) b6 -1  
 Sent: Monday, May 10, 2004 10:52 AM b7C -1  
 To: HARRINGTON, T J. (Div13) (FBI)  
 Cc: [REDACTED] (Div13) (FBI); BATTLE, FRANKIE (Div13) (FBI); BOWMAN, MARION E. (Div09) (FBI)  
 Subject: RE: pls confirm

SENSITIVE BUT UNCLASSIFIED  
NON-RECORD

BAU at the request of the then (GTMO Task Force, ITOS1) wrote an EC (quite long) explaining the Bureau way of interrogation vs. DoDs methodology. Our formal guidance has always been that all personnel conduct themselves in interviews in the manner that they would in the field. [REDACTED] b5 -1  
 [REDACTED] along with FBI advised that the LEA (Law Enforcement Agencies) at [REDACTED] b6 -2  
 GTMO were not in the practice of the using [REDACTED] and were of the opinion results b7C -2  
 obtained from these interrogations were [REDACTED] BAU explained [REDACTED] FBI has been successful for many years obtaining confessions via non-confrontational interviewing techniques. b5 -1

Referral/Direct

We spoke to FBI OGC with our concerns. I also brought these matters to the attention of DOJ during detainee meetings with [REDACTED] express their concerns to [REDACTED] b6 -2  
 [REDACTED] b7C -2

[REDACTED] has a copy of all the information regarding the BAU LHM. I believe she has provided that to TJ Harrington. b6 -1  
 b7C -1

I may have more specific information in my desk at HQ. I will search what I have when I return (5/17).

-----Original Message-----

From: HARRINGTON, T J. (Div13) (FBI)  
 Sent: Monday, May 10, 2004 4:33 AM  
 To: BATTLE, FRANKIE (Div13) (FBI); [REDACTED] (Div13) (FBI) [REDACTED] b6 -1  
 [REDACTED] (Div13) (FBI) b7C -1  
 Subject: FW: pls confirm

SENSITIVE BUT UNCLASSIFIED  
NON-RECORD

Please review our control files, did we produce anything on paper???

-----Original Message-----

From: Caproni, Valerie E. (Div09) (FBI)  
 Sent: Sunday, May 09, 2004 2:31 PM  
 To: [REDACTED] (Div09) (FBI); HARRINGTON, T J. (Div13) (FBI) [REDACTED] b6 -1  
 b7C -1

~~SECRET~~

9/26/2004

DETAINEES-2710

3132

~~SECRET~~

(Div13) (FBI) [REDACTED] (Div13) (FBI) b6 -1  
Subject: pls confirm b7C -1

SENSITIVE BUT UNCLASSIFIED  
NON-RECORD

I think I've heard this several times, but let me ask one more time:

b1

Has there been any written guidance given to FBI agents in either GTMO or Iraq about when they should "stand clear" b/c of the interrogation techniques being used by DOD or DHS [REDACTED] (S)

[REDACTED] (S)

b1  
b5 -1

~~SENSITIVE BUT UNCLASSIFIED~~

~~SENSITIVE BUT UNCLASSIFIED~~

~~SENSITIVE BUT UNCLASSIFIED~~

~~SENSITIVE BUT UNCLASSIFIED~~

DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations  
DECLASSIFICATION EXEMPTION 1  
SECRET//ORCON,NOFORN

~~SECRET~~

9/26/2004

DETAINEES-2711

3133